THE HON'BLE SMT.JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL No.1329 OF 2005

Dt: 11.08.2005

Between:

Raju Varghese

Ex.employee of Geological Survey of India

Southern Region, rep.by General Secretary

GSI Employees Association (Regn.No.822)

GSI Complex, Bandlaguda, Hyderabad … APPELLANT

AND

Geological Survey of India, Ministry of Coal and Mines

Government of India, rep.by its Director, KP Reddy

O/o.Dy.Director General, Southern Region

GSI Complex, Bandlaguda, Hyderabad

and another … RESPONDENT

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WRIT APPEAL No.1329 OF 2005

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JUDGMENT: (per the Hon'ble Sri Justice P.Lakshmana Reddy)

This is an appeal filed by the appellant-first respondent against the Order, dated 24.06.2005, in Writ Petition No.18035 of 2002 passed by a learned single Judge of this Court.

The first respondent herein has filed the said Writ Petition challenging the Orders of the Controlling Authority under Payment of Gratuity Act, 1972 and Assistant Labour

Commissioner (Central), Hyderabad, dated 31.07.2002, which directed the first respondent-writ petitioner to pay a sum of Rs.36,914/- towards gratuity and interest thereon to the appellant contending that it has no jurisdiction to pass such an Order.

The appellant-first respondent contested the matter before the learned single Judge contending that the Writ itself is not maintainable as there is a statutory remedy available to the writ petitioner viz., an appeal to the appellate authority prescribed under the Act. The learned single Judge allowed the Writ Petition and set aside the Orders of the Controlling Authority. Aggrieved by the said Order of the learned single Judge, the first respondent in the Writ petition preferred this Appeal contending that the learned single Judge failed to consider his contention that the Writ is not maintainable as a statutory remedy is provided and on that ground alone, the Orders of the learned single Judge are liable to be set aside.

During the course of hearing, learned counsel for the appellant-first respondent reiterated the same contention before this Court.

Learned counsel for the first respondent did not dispute that there is an appellate authority to challenge the Orders of the Controlling Authority passed under Payment of Gratuity Act, 1972. But, he contended that as the very order passed by the Controlling Authority is without jurisdiction and illegal, the first respondent filed the Writ instead of approaching the Appellate Authority. But, however, he could not deny that the Appellate Authority has got power to set aside the orders of the Controlling Authority on the ground that the Controlling Authority has no jurisdiction to pass orders in case of Central Government employees. But, yet, the learned counsel wanted to contend that the first respondent-writ petitioner has got right to approach the High Court by way of filing a Writ Petition challenging the said Orders of the Controlling Authority.

We are unable to agree with the contentions of the learned counsel for the first respondent. When an alternative remedy is available, the aggrieved party is expected to avail the remedy available before approaching this Court. The learned single Judge has not at all adverted to this point though that was the principal objection raised by the appellant-first respondent before the single Judge. Hence, we are of the considered view that this is a fit case to set aside the Orders of the learned single Judge and to dismiss the Writ Petition.

In view of the same, the Writ Appeal is allowed and the Writ Petition is dismissed with liberty to the first respondent herein to file an appeal before the Appellate Authority, in accordance with law.

(T.MEENA KUMARI, J)

(P.LAKSHMANA REDDY, J)

Dt: 11.08.2005

bsv/lvl